

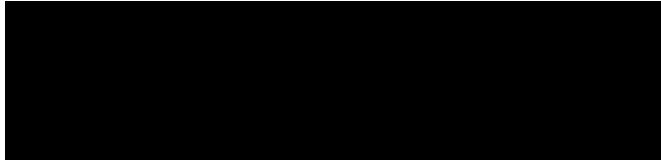
# **Exhibit 7**

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



DIVISION OF SURVEY & CERTIFICATION, REGION VI

April 25, 2016



CCN: [REDACTED]  
Cycle Start Date: CSD-April 4, 2016  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On April 4, 2016, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated April 15, 2016. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; **although the conditions that represented immediate jeopardy had been removed**, the facility continued to be **not in substantial compliance**. We concur with the findings, which indicate that the facility was **not in substantial compliance** with the following Medicare/Medicaid Requirements at that survey:

F0314 -- S/S: K -- 483.25(c) -- Treatment/Svcs to Prevent/Heal Pressure Sores

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before October 4, 2016, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$6,050.00 per day for the twenty-eight (28) days beginning March 8, 2016, and continuing through April 4, 2016, for a total of \$169,400.00 and a Federal Civil Money Penalty of \$1,200.00 per day beginning April 5, 2016, and continuing until further notice.

#### **Financial Hardship Consideration**

When imposing a CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. You may request financial hardship consideration if a CMP has been imposed against your facility in the total amount of \$10,000.00 or more. The attached Financial Condition Review document lists the financial documents required for consideration by CMS. The documents and other requested information must be compiled by an independent Certified Public Account (CPA) and sent to CMS by May 10, 2016. Please return the requested documents and/or any additional information via e-mail to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov). Contact Josie Vargas at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **June 24, 2016, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Josie Vargas at (443) 380-6485.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

Please be advised you are not required to request an IIDR. You may choose to continue an

Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning April 30, 2016, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their April 15, 2016, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. [You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated April 15, 2016.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than June 24, 2016 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can

file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than June 24, 2016 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Josie Vargas at (214) 767-4428.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosures

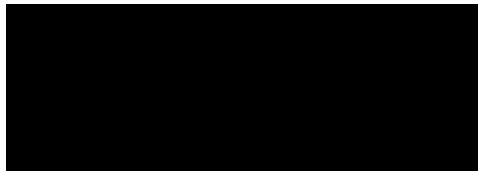
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

November 3, 2016



CCN: [REDACTED]

Cycle Start Date: CSD-October 16, 2016  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On October 16, 2016, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated October 28, 2016. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0157 -- S/S: E -- 483.10(b)(11) -- Notify of Changes (injury/decline/room, etc.)  
F0222 -- S/S: H -- 483.13(a) -- Right to be Free from Chemical Restraints  
F0223 -- S/S: K -- 483.13(b), 483.13(c)(1)(i) -- Free from Abuse/Involuntary Seclusion  
F0226 -- S/S: K -- 483.13(c) -- Develop/Implement Abuse/Neglect, etc. Policies  
F0241 -- S/S: E -- 483.15(a) -- Dignity and Respect of Individuality  
F0282 -- S/S: F -- 483.20(k)(3)(ii) -- Services by Qualified Persons/per Care Plan  
F0323 -- S/S: E -- 483.25(h) -- Free of Accident Hazards/Supervision/Devices  
F0329 -- S/S: H -- 483.25(l) -- Drug Regimen is Free from Unnecessary Drugs  
F0332 -- S/S: E -- 483.25(m)(1) -- Free of Medication Error Rates of 5% or More  
F0364 -- S/S: E -- 483.35(d)(1)-(2) -- Nutritive Value/Appear, Palatable/Prefer Temp  
F0366 -- S/S: E -- 483.35(d)(4) -- Substitutes of Similar Nutritive Value  
F0371 -- S/S: E -- 483.35(i) -- Food Procure, Store/Prepare/Serve - Sanitary  
F0492 -- S/S: F -- 483.75(b) -- Comply with Federal/State/Local Laws/Prof Std  
F0514 -- S/S: E -- 483.75(l)(1) -- Resident Records-Complete/Accurate/Accessible

483.70(a) – Life Safety from Fire

K0025 -- S/S: F -- NFPA 101 -- Life Safety Code Standard  
K0029 -- S/S: E -- NFPA 101 -- Life Safety Code Standard  
K0038 -- S/S: F -- NFPA 101 -- Life Safety Code Standard  
K0048 -- S/S: K -- NFPA 101 -- Life Safety Code Standard  
K0056 -- S/S: F -- NFPA 101 -- Life Safety Code Standard  
K0147 -- S/S: F -- NFPA 101 -- Life Safety Code Standard

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before April 16, 2017, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$6,050.00 per day for the three (3) days beginning October 13, 2016, and continuing through October 15, 2016, for a total of \$18,150.00 and a Federal Civil Money Penalty of \$1,000.00 per day beginning October 16, 2016, and continuing until further notice from CMS.

#### **Financial Hardship Consideration**

When imposing a CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. You may request financial hardship consideration if a CMP has been imposed against your facility in the total amount of \$10,000.00 or more. The attached Financial Condition Review document lists the financial documents required for consideration by CMS. The documents and other requested information must be compiled by an independent Certified Public Account (CPA) and sent to CMS by November 18, 2016. Please return the requested documents and/or any additional information via e-mail to Marcus Foster at marcus.foster@cms.hhs.gov. Contact Marcus Foster at (214) 767-6456 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **January 2, 2017, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Marcus Foster at (443) 380-6485.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning November 12, 2016, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their October 28, 2016, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. [You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led

to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than January 2, 2017 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIMMEDIATEOFFICE@hhs.gov](mailto:OSDABIMMEDIATEOFFICE@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than January 2, 2017 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at (214) 767-6456.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

January 12, 2017

CCN: [REDACTED]

Cycle Start Date: [REDACTED] CSD-December 23, 2016  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On December 23, 2016, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated January 5, 2017. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0155 -- S/S: L -- 483.10(c)(6)(g)(12), 483.24(a)(3) -- Right to Refuse; Formulate Advance Directives  
F0223 -- S/S: L -- 483.12 -- Free from Abuse/Involuntary Seclusion  
F0226 -- S/S: L -- 483.12(b)(1)-(3), 483.95(c)(1)-(3) -- Develop/Implement Abuse/Neglect, etc. Policies  
F0281 -- S/S: L -- 483.21(b)(3)(i) -- Services Provided Meet Professional Standards  
F0309 -- S/S: L -- 483.24, 483.25(k)(l) -- Provide Care/Services for Highest Well Being

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before June 23, 2017, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for

termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$7,350.00 per day for the fifteen (15) days beginning December 9, 2016, and continuing through December 23, 2016, for a total of \$110,250.00 and a Federal Civil Money Penalty of \$1,100.00 per day beginning December 24, 2016, and continuing until further notice from CMS. Please note that this civil money penalty may change after a pending administrative review within the Regional Office of CMS based on the S&C: 16-40-NH/HHA/CLIA memorandum.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by January 27, 2017. Contact Josie Vargas at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **March 13, 2017, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Josie Vargas at (443) 380-6485.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

Please be advised you are not required to request an IIDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning January 20, 2017, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their January 5, 2017, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. [You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than March 13, 2017 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then

b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than March 13, 2017 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Josie Vargas at (214) 767-4428.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

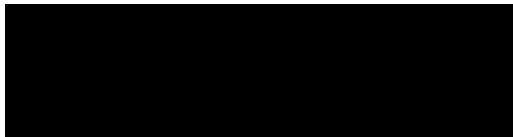
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



## DIVISION OF SURVEY & CERTIFICATION, REGION VI

April 11, 2017



CCN: [REDACTED]

Cycle Start Date: CSD-March 7, 2017

Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On March 26, 2017, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated April 7, 2017. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; **although the conditions that represented immediate jeopardy had been removed**, the facility continued to be **not in substantial compliance**. We concur with the findings, which indicate that the facility was **not in substantial compliance** with the following Medicare/Medicaid Requirements at that survey:

F0223 -- S/S: L -- 483.12(a)(1) -- Free from Abuse/Involuntary Seclusion  
F0226 -- S/S: L -- 483.12(b)(1)-(3), 483.95(c)(1)-(3) -- Develop/Implement Abuse/Neglect, etc. Policies  
F0241 -- S/S: E -- 483.10(a)(1) -- Dignity and Respect of Individuality  
F0281 -- S/S: L -- 483.21(b)(3)(i) -- Services Provided Meet Professional Standards  
F0333 -- S/S: L -- 483.45(f)(2) -- Residents Free of Significant Med Errors  
F0353 -- S/S: L -- 483.35(a)(1)-(4) -- Sufficient 24-hr Nursing Staff Per Care Plans  
F0425 -- S/S: L -- 483.45(a)(b)(1) -- Pharmaceutical Service - Accurate Procedures, RPH  
F0490 -- S/S: L -- 483.70 -- Effective Administration/Resident Well-Being

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

## ENFORCEMENT REMEDIES

Based on these findings and the SA recommendations, the Centers for Medicare & Medicaid Services (CMS) is revising and/or adding remedies, specifically:

### **• Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$7,550.00 per day for the seventeen (17) days beginning March 10, 2017, and continuing through March 26, 2017, for a total of \$128,350.00, and a Federal Civil Money Penalty of \$1,000.00 per day beginning March 27, 2017, and continuing until further notice from CMS. Please note that this civil money penalty may

change after a pending administrative review within the Regional Office of CMS based on the S&C: 16-40-NH/HHA/CLIA memorandum.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) by April 26, 2017. Contact Marcus Foster at (214) 767-6456 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **June 10, 2017, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated April 7, 2017.

The other remedies mentioned in our previous letter dated March 27, 2017, remain unchanged:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Effective September 7, 2017.

- **Denial of Payment for New Admissions (DPNA):**

Effective April 5, 2017.

- **Per-Day Civil Money Penalty:**

A Federal Civil Money Penalty of \$6,050.00 per day for the five (5) days beginning March 3, 2017, and continuing through March 7, 2017, for a total of \$30,250.00 and a Federal Civil Money Penalty of \$1,000.00 per day for the two (2) days beginning March 8, 2017, and continuing through March 9, 2017, for a total of \$2,000.00 had been imposed and remains in place. The CMP will continue to accrue until the deficiencies are corrected and your facility is found to be in substantial compliance, or your provider agreement is terminated.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance for the March 26, 2017, survey (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than June 10, 2017 (60 days from the date of receipt of this letter via fax) for the March 26, 2017, survey.

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service

of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than June 10, 2017 (60 days from the date of receipt of this letter via fax) for the March 26, 2017, survey, by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

Upon written notification of how and when you actually corrected all serious deficiencies, the SA will evaluate the information provided and the facts surrounding the termination. If it appears that another survey may result in a finding of compliance, the SA will try to arrange a resurvey before the termination date even though not required by law or CMS procedures to do so.

If you have any questions, please contact Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (214) 767-6456.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

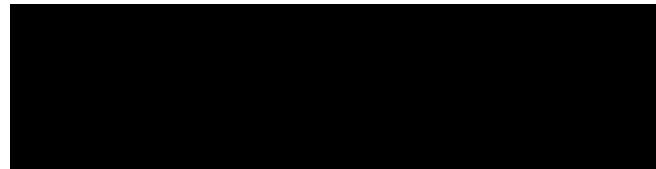
cc: State LTC Sanctions  
State Medicaid Agency

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



## DIVISION OF SURVEY & CERTIFICATION, REGION VI

May 23, 2017



CCN: [REDACTED]

Cycle Start Date: CSD-April 26, 2017  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On April 26, 2017, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated May 10, 2017. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0223 -- S/S: K -- 483.12(a)(1) -- Free from Abuse/Involuntary Seclusion  
F0226 -- S/S: K -- 483.12(b)(1)-(3), 483.95(c)(1)-(3) -- Develop/Implement Abuse/Neglect, etc. Policies  
F0309 -- S/S: K -- 483.24, 483.25, 483.25(k)(1) -- Provide Care/Services for Highest Well Being  
F0323 -- S/S: G -- 483.25(d)(1)(2)(n)(1)-(3) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

#### **• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before October 26, 2017, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been

satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$14,659.00 per day for the nine (9) days beginning February 16, 2017, and continuing through February 24, 2017, for a total of \$131,931.00, and a Federal Civil Money Penalty of \$1,460.00 per day beginning February 25, 2017, and continuing until further notice from CMS.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at marcus.foster@cms.hhs.gov by June 7, 2017. Contact Marcus Foster at (214) 767-6456 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **July 22, 2017, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to

CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning May 25, 2017, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their May 10, 2017, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. [You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated May 10, 2017.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than July 22, 2017 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

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If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than July 22, 2017 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at (214) 767-6456.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

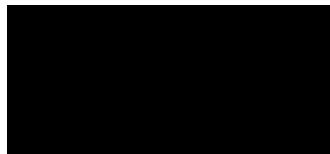
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



## DIVISION OF SURVEY & CERTIFICATION, REGION VI

October 26, 2017



CCN: [REDACTED]

Cycle Start Date: CSD-June 15, 2017  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

Administrative review during the informal dispute resolution process conducted at the State Survey Agency (SA) resulted in a reconsideration of the scope and/or severity of the deficiencies (at the August 12, 2017, survey) which had led to our imposition of civil money penalties (CMP) against the above-named facility (September 5, 2017, CMS letter). Based on the SA reconsideration, CMS hereby is **revising** that CMP, and is as follows:

- The Federal Civil Money Penalty of \$10,949.00 per day for the seventeen (17) days beginning July 26, 2017, and continuing through August 11, 2017, for a total of \$186,133.00, a Federal Civil Money Penalty of \$1,255.00 per day for the one (1) day beginning August 12, 2017, and continuing through August 12, 2017, for a total of \$1,255.00, and a Federal Civil Money Penalty of \$150.00 per day beginning August 13, 2017, and continuing until further notice from CMS, is now revised to a Federal Civil Money Penalty of \$6,394.00 per day for the seventeen (17) days beginning July 26, 2017, and continuing through August 11, 2017, for a total of \$108,698.00, a Federal Civil Money Penalty of \$1,255.00 per day for the one (1) day beginning August 12, 2017, and continuing through August 12, 2017, for a total of \$1,255.00, and a Federal Civil Money Penalty of \$105.00 per day beginning August 13, 2017, and continuing until further notice from CMS.

The remedies imposed in the CMS letter dated September 5, 2017, remain unchanged:

- Termination of your provider agreement, effective December 15, 2017
- Denial of payment for new Medicare/Medicaid admissions, effective September 9, 2017

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led

to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than November 4, 2017.**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than November 4, 2017, by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be emailed or faxed to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at marcus.foster@cms.hhs.gov or at (214) 767-6456.

Sincerely,

A handwritten signature in black ink that reads "Ginger Odle". The signature is fluid and cursive, with "Ginger" on top and "Odle" below it, both ending in a flourish.

Ginger Odle  
Manager, Enforcement Branch

cc: State LTC Sanctions

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202

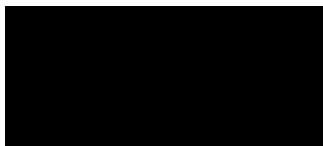


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**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

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August 7, 2017



CCN: [REDACTED]  
Cycle Start Date: CSD-July 16, 2017  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On July 16, 2017, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated July 27, 2017. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0151 -- S/S: E -- 483.10(b)(1)(2) -- Right to Exercise Rights - Free of Reprisal  
F0224 -- S/S: J -- 483.12(b)(1)-(3) -- Prohibit Mistreatment/Neglect/Misappropriation  
F0225 -- S/S: F -- 483.12(a)(3)(4)(c)(1)-(4) -- Investigate/Report Allegations/Individuals  
F0323 -- S/S: J -- 483.25(d)(1)(2)(n)(1)-(3) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

• **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before January 16, 2018, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must

fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$8,004.00 per day for the two (2) days beginning June 11, 2017, and continuing through June 12, 2017, for a total of \$16,008.00, and a Federal Civil Money Penalty of \$810.00 per day beginning July 16, 2017, and continuing until further notice from CMS.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) by August 22, 2017. Contact Marcus Foster at (214) 767-6456 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **October 6, 2017, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing

the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning August 11, 2017, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their July 16, 2017, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. [You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]

- **Directed Plan of Correction:**

CMS is imposing a Directed Plan of Correction. Refer to the attachment. Please note, your facility will not receive a revisit until the Directed Plan of Correction has been completed.

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated July 16, 2017.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than October 6, 2017 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the File New Appeal link on the Manage Existing Appeals screen; then b) clicking Civil Remedies Division on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than October 6, 2017 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at (214) 767-6456.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

October 23, 2017

[REDACTED] CCN: [REDACTED]  
Cycle Start Date: CSD-October 6, 2017  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On October 6, 2017, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated October 19, 2017. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0224 -- S/S: L -- 483.12(b)(1)-(3) -- Prohibit Mistreatment/Neglect/Misappropriation  
F0225 -- S/S: L -- 483.12(a)(3)(4)(c)(1)-(4) -- Investigate/Report Allegations/Individuals  
F0226 -- S/S: L -- 483.12(b)(1)-(3), 483.95(c)(1)-(3) -- Develop/Implement Abuse/Neglect, etc. Policies

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before April 6, 2018, CMS will terminate your facility's provider agreement in accordance with the statutory provisions at §1819(h)(2)(C) and §1919(h)(3)(D) and Federal regulations at 42 CFR §488.12 and §488.456. CMS will arrange to publish notice of this termination in your local newspaper at least fifteen days before the termination date. CMS will also notify the appropriate State officials concerning the impending termination of your provider agreement. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been*

satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

• **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$16,004.00 per day for the seven (7) days beginning September 30, 2017, and continuing through October 6, 2017, for a total of \$112,028.00, and a Federal Civil Money Penalty of \$2,265.00 per day beginning October 7, 2017, and continuing until further notice from CMS. Please note that this civil money penalty may change after a pending administrative review within the Regional Office of CMS based on the S&C: 16-40-NH/HHA/CLIA memorandum.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via **e-mail only** to Marcus Foster at marcus.foster@cms.hhs.gov by November 7, 2017. Contact Marcus Foster at (214) 767-6456 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **December 22, 2017, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln/Suite 300W  
Austin, Texas 78723  
Phone: 512-706-7268  
Fax: 512-706-7275  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning November 3, 2017, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their October 19, 2017, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated October 6, 2017.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than December 22, 2017 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can

file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than December 22, 2017 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at (214) 767-6456.

Sincerely,



Ginger Odle  
Manager, Enforcement Branch

Enclosure

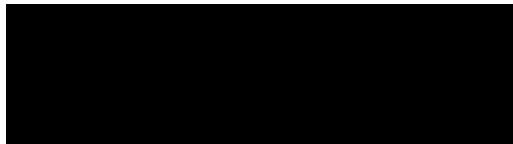
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

April 23, 2018



CCN: [REDACTED]  
Cycle Start Date: CSD-March 9, 2018  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On March 9, 2018, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated March 23, 2018. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: L -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0607 -- S/S: L -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0608 -- S/S: L -- 483.12(b)(5)(i)-(iii) -- Reporting of Reasonable Suspicion of a Crime  
F0609 -- S/S: L -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: L -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation  
F0655 -- S/S: E -- 483.21(a)(1)-(3) -- Baseline Care Plan  
F0656 -- S/S: E -- 483.21(b)(1) -- Develop/Implement Comprehensive Care Plan  
F0835 -- S/S: L -- 483.70 -- Administration

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before September 9, 2018, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated,

your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Instance Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$20,000.00 per instance for the instance on February 5, 2018, described at deficiency F0600 (S/S: L). Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at marcus.foster@cms.hhs.gov by May 8, 2018. Contact Marcus Foster at (214) 767-6456 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **June 22, 2018, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning April 7, 2018, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their March 23, 2018, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

#### **PHASE TWO ENFORCEMENT MORATORIUM NOTICE**

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

**Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies.** For more information, see S&C Memo 18-04-NH, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier

are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than June 22, 2018 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than June 22, 2018 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at (214) 767-6456.

Sincerely,



Shannon Hills  
Acting Manager, Enforcement Branch

Enclosure

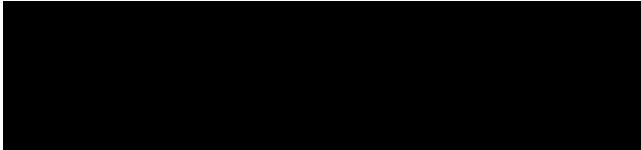
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



DIVISION OF SURVEY & CERTIFICATION, REGION VI

July 11, 2018



CCN: [REDACTED]

Cycle Start Date: CSD-May 3, 2018

Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On May 3, 2018, your Texas Health and Human Services Commission State Survey Agency (SA) conducted an inspection during a survey at your facility to determine if your facility was in compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare and Medicaid). This survey found that your facility was **not in substantial compliance** with these requirements.

On May 25, 2018, another survey (conducted by the SA) demonstrated conditions that represented immediate jeopardy and although the conditions had been removed, your facility continued to not be in substantial noncompliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare participation requirements:

May 3, 2018, survey:

F0557 -- S/S: E -- 483.10(e)(2) -- Respect, Dignity/Right to have Personal Property  
F0585 -- S/S: E -- 483.10(j)(1)-(4) -- Grievances  
F0607 -- S/S: E -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0609 -- S/S: E -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: E -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation

May 25, 2018, survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0607 -- S/S: J -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0609 -- S/S: E -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: J -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation  
F0623 -- S/S: F -- 483.15(c)(3)-(6)(8) -- Notice Requirements Before Transfer/Discharge  
F0684 -- S/S: J -- 483.25 -- Quality of Care

Your SA has since reported to CMS that the deficiencies that would have caused our termination of the Medicare/Medicaid agreement with your facility on November 3, 2018, **have been corrected and your facility has achieved substantial compliance on May 26, 2018.** Based on your May 3, 2018,

and May 25, 2018, survey and your compliance with Medicare/Medicaid requirements the remedies are as follows:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Your SA recommended termination of your facility's Medicare agreement on November 3, 2018 unless your facility achieved substantial compliance before that date. This is **NOW RESCINDED.**

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$9,504.00 per day for the one (1) day beginning February 23, 2018, and continuing through February 23, 2018, for a total of \$9,504.00, and a Federal Civil Money Penalty of \$505.00 per day for the ninety-one (91) days beginning February 24, 2018, and continuing through May 25, 2018, for a total of \$45,955.00.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) by July 26, 2018. Contact Marcus Foster at (214) 767-6456 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **September 9, 2018, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may email or fax the waiver to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723

Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Your SA recommended payment be denied for all new Medicare and Medicaid admissions, effective June 23, 2018. This is **NOW RESCINDED**; you may submit claims as you normally would.

#### **PHASE TWO ENFORCEMENT MORATORIUM NOTICE**

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

**Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies.** For more information, see S&C Memo 18-04-NH, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law

with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than September 9, 2018 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than September 9, 2018 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

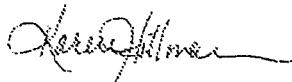
Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be emailed or faxed to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, you may contact Marcus Foster of my staff via e-mail or phone at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or (214) 767-6456.

Sincerely,



Karen Hillman  
Manager, Enforcement Branch

Enclosure

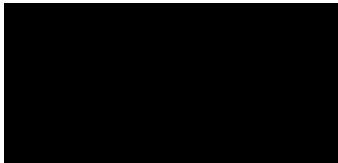
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

July 12, 2018



CCN: [REDACTED]  
Cycle Start Date: **CSD-June 7, 2018**  
Facility ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

Further administrative review, by the Centers for Medicare and Medicaid Services (CMS), has resulted in a change in the remedies and/or penalties cited in our previous notice letter dated June 21, 2018. Therefore, the enforcement action (under this cycle start date) is revised as follows:

- The Federal Civil Money Penalty of \$10,204.00 per day for the sixteen (16) days beginning May 23, 2018, and continuing through June 7, 2018, for a total of \$163,264.00, and a Federal Civil Money Penalty of \$1,715.00 per day beginning June 8, 2018, and until further notice from CMS, is revised to a Federal Civil Money Penalty of \$10,204.00 per day for the sixteen (16) days beginning May 23, 2018, and continuing through June 7, 2018, for a total of \$163,264.00, and a Federal Civil Money Penalty of \$505.00 per day beginning June 8, 2018, and continuing until further notice from CMS.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at marcus.foster@cms.hhs.gov by July 27, 2018. Contact Marcus Foster at (214) 767-6456 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **August 20, 2018, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may email or fax the waiver to Marcus Foster at marcus.foster@cms.hhs.gov or at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

The other remedies mentioned in the CMS letter dated June 21, 2018, remain unchanged:

- Termination of your provider agreement, effective December 7, 2018

- Denial of payment for new Medicare/Medicaid admissions, effective July 4, 2018

### **PHASE TWO ENFORCEMENT MORATORIUM NOTICE**

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

**Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies.** For more information, see S&C Memo 18-04-NH, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File)** at <https://dab.efile.hhs.gov> no later than August 20, 2018.

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than August 20, 2018, by mailing to the following address:

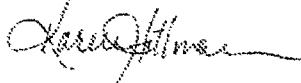
Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (214) 767-6456.

Sincerely,



Karen Hillman  
Manager, Enforcement Branch

Enclosure

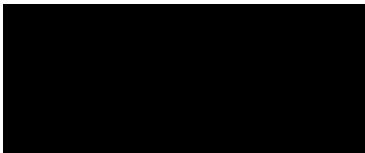
cc: State LTC Sanctions

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



## DIVISION OF SURVEY & CERTIFICATION, REGION VI

August 14, 2018



CCN: [REDACTED]  
Cycle Start Date: CSD-July 23, 2018  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On July 23, 2018, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated August 3, 2018. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0584 -- S/S: F -- 483.10(i)(1)-(7) -- Safe/Clean/Comfortable/Homelike Environment  
F0600 -- S/S: K -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0607 -- S/S: K -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0689 -- S/S: K -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0835 -- S/S: K -- 483.70 -- Administration  
F0867 -- S/S: K -- 483.75(g)(2)(ii) -- QAPI/QAA Improvement Activities

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before January 23, 2019, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416.

*Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$13,054.00 per day for the one (1) day of May 30, 2018, for a total of \$13,054.00 and a Federal Civil Money Penalty of \$1,615.00 per day beginning May 31, 2018, and continuing until further notice from CMS.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by August 29, 2018. Contact Josie Vargas at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **October 13, 2018, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Josie Vargas at (443) 380-6485.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may

not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning August 18, 2018, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their August 3, 2018, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

## **PHASE TWO ENFORCEMENT MORATORIUM NOTICE**

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

**Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies.** For more information, see S&C Memo 18-04-NH, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.

## **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System

**(DAB E-File) at <https://dab.efile.hhs.gov> no later than October 13, 2018 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than October 13, 2018 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Hillman".

Karen Hillman  
Manager, Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 827  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

October 18, 2018

CCN: [REDACTED]  
Cycle Start Date: CSD-September 22, 2018  
Facility State ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

On September 22, 2018, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated October 5, 2018. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0607 -- S/S: J -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0609 -- S/S: D -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: J -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation  
F0835 -- S/S: J -- 483.70 -- Administration

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before March 22, 2019, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in

Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$6,394.00 per day for the eight (8) days beginning September 14, 2018, and continuing through September 21, 2018, for a total of \$51,152.00, and a Federal Civil Money Penalty of \$505.00 per day beginning September 22, 2018, and continuing until further notice from CMS.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Marcus Foster at marcus.foster@cms.hhs.gov by November 2, 2018. Contact Marcus Foster at (214) 767-6456 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **December 17, 2018, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may fax the waiver to Marcus Foster at (443) 380-7540.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning October 20, 2018, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their October 5, 2018, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

### **PHASE TWO ENFORCEMENT MORATORIUM NOTICE**

Based on concerns from stakeholders that some facilities may need additional time to come into compliance with the new Phase 2 requirements, CMS will not impose civil money penalties, discretionary denial of payment, and/or discretionary termination for cited noncompliance with certain Phase 2 provisions for 18 months (Nov. 28, 2017 – May 28, 2019). Further, CMS will hold constant Nursing Home Compare's health inspection ratings for one year.

**Therefore, if this notice includes the imposition of civil money penalties, discretionary denial of payment for new or all admissions or discretionary termination, those remedies are being imposed only as a result of violations of Phase 1 or non-exempt Phase 2 deficiencies.** For more information, see S&C Memo 18-04-NH, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf>.

CMS is conducting a review of these and all other requirements of participation to look for ways to reduce burden on providers while ensuring patient safety. We will assess the appropriateness and necessity of these requirements in protecting the health, safety, welfare and rights of residents, and determine which may be streamlined or eliminated (See 82 Fed. Reg. 21014, 21089 (May 4, 2017) at Section VI. C.). As the CMS standards are under review, any party using CMS survey reports should be cognizant of this fact.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures

governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than December 17, 2018 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than December 17, 2018 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

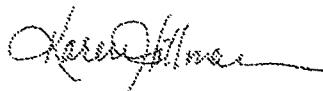
Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster of my staff at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (214) 767-6456.

Sincerely,



Karen Hillman  
Manager, Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 900  
Dallas, Texas 75202



**DIVISION OF SURVEY & CERTIFICATION, REGION VI**

August 14, 2019

CCN: [REDACTED]  
Cycle Start Date: CSD-June 20, 2019  
Facility ID: [REDACTED]

**THIS SERVES AS OFFICIAL NOTICE SENT VIA FACSIMILE PURSUANT TO 42 CFR PART §488. NO HARD COPY TO FOLLOW.**

Dear Administrator:

Further administrative review, by the Centers for Medicare and Medicaid Services (CMS), has resulted in a change in the remedies and/or penalties cited in our previous notice letter dated July 15, 2019. Therefore, the enforcement action (under this cycle start date) is revised as follows:

- The Federal Civil Money Penalty of \$21,393.00 per instance for the instance on January 10, 2019, described at deficiency F0684 (S/S: J), the Federal Civil Money Penalty of \$20,855.00 per instance for the instance on September 21, 2018, described at deficiency F0684 (S/S: J), and the Federal Civil Money Penalty of \$12,710.00 per instance for the instance on May 19, 2019, described at deficiency F0689 (S/S: J) are rescinded.
- In accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, the following Federal Civil Money Penalties are now imposed:

\$20,220.00 per instance for the instance on October 2, 2018, described at deficiency F0773 (S/S: J);  
\$20,220.00 per instance for the instance on January 10, 2019, described at deficiency F0580 (S/S: J);  
\$20,220.00 per instance for the instance on January 11, 2019, described at deficiency F0684 (S/S: J);  
\$10,515.00 per instance for the instance on May 19, 2019, described at deficiency F0689 (S/S: J);  
and \$20,220.00 per instance for the instance on June 19, 2019, described at deficiency F0880 (S/S: D).

In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) by August 29, 2019. Contact Marcus Foster at (214) 767-6456 if you have any questions.

### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **October 13, 2019, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may email or fax the waiver to Marcus Foster at marcus.foster@cms.hhs.gov or at (443) 380-7540. Please add the CCN and Cycle Start Date to the subject line of your email or fax.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

The other remedies mentioned in the CMS letter dated July 15, 2019, remain unchanged:

- Termination of your provider agreement, effective December 20, 2019
- Denial of payment for new Medicare/Medicaid admissions, effective July 23, 2019

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than October 13, 2019 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at:

[https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than October 13, 2019 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

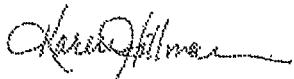
Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (443) 380-7540.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Marcus Foster. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

If you have any questions, please contact Marcus Foster at [marcus.foster@cms.hhs.gov](mailto:marcus.foster@cms.hhs.gov) or at (214) 767-6456. Please include the CCN and Cycle Start Date in the subject line of your email or voice mail message.

Sincerely,



Karen Hillman  
Manager, Enforcement Branch

Enclosure  
cc: State LTC Sanctions

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 106-900  
Dallas, Texas 75202

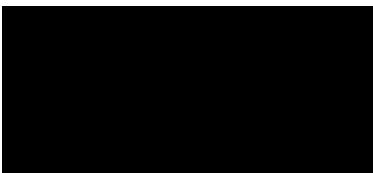


## DIVISION OF SURVEY & CERTIFICATION, REGION VI

### **IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**

This serves as official notice pursuant to 42 CFR Part §488.

December 17, 2019  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): November 20, 2019

Dear Administrator:

On November 20, 2019, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated December 6, 2019. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: K -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0610 S/S: K 483.12(c)(2) (4) Investigate/Prevent/Correct Alleged Violation  
F0656 -- S/S: D -- 483.21(b)(1) -- Develop/Implement Comprehensive Care Plan  
F0689 -- S/S: K -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before May 20, 2020, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo>

*/Termination-Notices.html.* CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning February 20, 2020, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-November 20, 2019 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than February 15, 2020 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than February 15, 2020 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

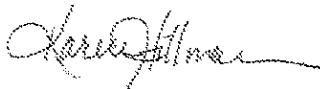
In addition, please email or fax a copy of your request to Vilma Acosta at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) or at (443) 380-6495.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Vilma Acosta. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Vilma Acosta of my staff at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) or (214) 767-4460. Please include the CCN [REDACTED] CSD-November 20, 2019, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Karen Hillman  
Manager, Enforcement Branch

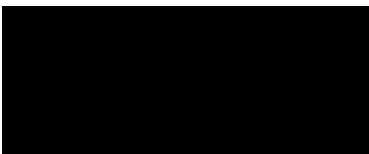
cc: State LTC Sanctions  
State Medicaid Agency  
MAC

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas – Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

January 12, 2021  
Delivered by Fax Only



RE: Imposition of Remedies and Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): October 27, 2020

Dear Administrator:

On October 27, 2020, and November 2, 2020 your State Survey Agency (SA) surveyed your facility for compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare & Medicaid). The SA notified your facility of its findings in a letters dated November 10, 2020 and November 13, 2020. After a review of the surveys, **although the conditions that represented immediate jeopardy had been removed**, the Centers for Medicare & Medicaid Services (CMS) concurs with the SA that your facility continued to be **not in substantial compliance** with the following Medicare/Medicaid Requirements:

October 27, 2020, survey:  
F0880 -- S/S: L -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control

November 2, 2020, survey:  
F0760 -- S/S: D -- 483.45(f)(2) -- Residents are Free of Significant Med Errors

Your SA has since reported to CMS that the deficiencies cited during the October 27, 2020, and November 2, 2020, surveys, which would have caused the termination of the Medicare/Medicaid agreement with your facility on April 27, 2021, have been corrected. **Your facility achieved substantial compliance with the requirements for Medicare participation on December 2, 2020.**

**ENFORCEMENT REMEDIES**

Based on the findings listed on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), forwarded to your facility after each survey, the SA notified your facility that it would recommend to CMS that remedies be imposed.

The CMS Dallas office has reviewed your facility's surveys. Based on the review, and your facility's compliance, the following remedies are imposed:

- **Termination of Your Medicare & Medicaid Provider Agreement:**

Your SA recommended termination of your facility's Provider Agreement on April 27, 2021, unless your facility achieved substantial compliance before that date. This is **NOW RESCINDED**.

- **Per-Day Civil Money Penalty:**

CMS is **imposing**, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$15,975.00 per day for the eight (8) days beginning October 20, 2020, and continuing through October 27, 2020, for a total of \$127,800.00, a Federal Civil Money Penalty of \$435.00 per day for the twenty-eight (28) days beginning October 28, 2020, and continuing through November 24, 2020, for a total of \$12,180.00, and a Federal Civil Money Penalty of \$225.00 per day for the thirty (30) days beginning November 2, 2020, and continuing through December 1, 2020, for a total of \$6,750.00. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Vilma Acosta at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) by January 27, 2021. Contact Vilma Acosta at (214) 767-4460 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **March 13, 2021, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may email or fax the waiver to Vilma Acosta at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) or at (443) 380-6495. Please include the CCN: [REDACTED] CSD-October 27, 2020, and your facility's name to the subject line of your email or fax.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning November 25, 2020 through December 1, 2020, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their November 10, 2020, letter. Your Medicare Administrative Contractor (MAC) will be notified to resume making payments for covered services beginning December 2, 2020.

- **Directed Plan of Correction:**

Your SA imposed a Directed Plan of Correction. Refer to the State letter dated November 10, 2020.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than March 13, 2021 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

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If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than March 13, 2021 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Vilma Acosta at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) or a (443) 380-6495.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be emailed or faxed to Vilma Acosta. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions, please contact Vilma Acosta at [vilma.acosta@cms.hhs.gov](mailto:vilma.acosta@cms.hhs.gov) or at (214) 767-4460. Please include the CCN [REDACTED] CSD-October 27, 2020, and your facility's name to the subject line of your email or fax.

Sincerely,



Shannon Hills  
Manager, Long Term Care Branch

Enclosure

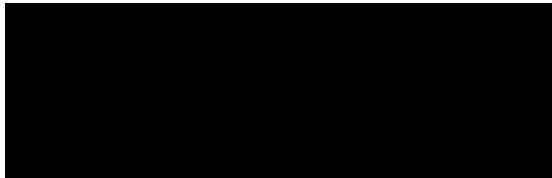
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

May 7, 2021  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): February 11, 2021

Dear Administrator:

On February 11, 2021, and April 13, 2021, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in letters dated March 4, 2021, March 26, 2021, and April 21, 2021. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements:

February 11, 2021, survey:

F0677 -- S/S: E -- 483.24(a)(2) -- ADL Care Provided for Dependent Residents  
F0679 -- S/S: E -- 483.24(c)(1) -- Activities Meet Interest/needs Each Resident  
F0695 -- S/S: D -- 483.25(i) -- Respiratory/Tracheostomy Care and Suctioning  
F0842 -- S/S: D -- 483.20(f)(5), 483.70(i)(1)-(5) -- Resident Records - Identifiable Information  
F0880 -- S/S: E -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control  
F0925 -- S/S: F -- 483.90(i)(4) -- Maintains Effective Pest Control Program

483.90(a) – Life Safety from Fire

K0918 -- S/S: F -- NFPA 101 -- Electrical Systems - Essential Electric System

April 13, 2021, survey:

F0656 -- S/S: J -- 483.21(b)(1) -- Develop/Implement Comprehensive Care Plan  
F0684 -- S/S: J -- 483.25 -- Quality of Care  
F0689 -- S/S: D -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare & Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before August 11, 2021, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Instance Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$15,000.00 per instance for the instance on February 11, 2021, described at deficiency F0880 (S/S: E). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$9,705.00 per day for the two (2) days beginning March 6, 2021, and continuing through March 7, 2021, for a total of \$19,410.00, and a Federal Civil Money Penalty of \$225.00 per day beginning March 8, 2021, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **via e-mail only** to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by May 22, 2021. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **July 6, 2021, is the last day to waive your right to a hearing.** The waiver must be submitted in writing on or before this date in order to receive the reduction. You may email or fax the waiver to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485. Please include the CCN: [REDACTED] CSD-February 11, 2021, and your facility's name to the subject line of your email or fax to identify your facility.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
1106 Clayton Ln, Suite 300 West, Mail Code H970  
Austin, Texas 78723  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning May 11, 2021, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal

regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their March 4, 2021, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

- **Directed Plan of Correction:**

Your SA imposed a Directed Plan of Correction. Refer to the State letter dated March 4, 2021.

Please note all deficiencies cited for the surveys included under the CSD-February 11, 2021 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than July 6, 2021 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are

located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than July 6, 2021 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN [REDACTED] CSD-February 11, 2021, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Acting Manager, Long Term Care Branch

Enclosure

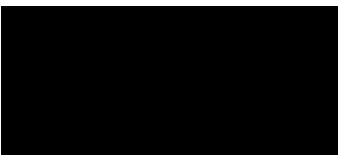
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
This serves as official notice pursuant to 42 CFR Part §488.

August 12, 2021  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): July 11, 2021

Dear Administrator:

On July 11, 2021, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated July 22, 2021. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs, although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free from Abuse and Neglect  
F0684 -- S/S: J -- 483.25 -- Quality of Care

To participate as providers of services in the Medicare & Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS-2567), the following remedies are imposed:

**• Termination of Your Medicare & Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before January 11, 2022, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is

*reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

• **Per-Instance Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$20,780.00 per instance for the instance on July 1, 2021, described at deficiency F0684 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

**Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by August 27, 2021. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

**Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. October 11, 2021, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction. You may email or fax the waiver to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485. Please include the CCN [REDACTED] CSD-July 11, 2021, and your facility's name to the subject line of your email or fax.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money

penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

• **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning August 6, 2021, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their July 22, 2021, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-July 11, 2021 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than October 11, 2021 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals\\_to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals_to_crd_instructions).

Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than October 11, 2021 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN [REDACTED] CSD-July 11, 2021, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

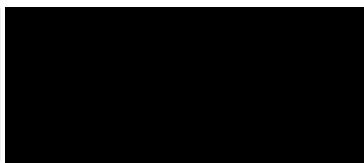
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

January 5, 2022  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): November 5, 2021

Dear Administrator:

On November 5, 2021, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated November 22, 2021. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0607 -- S/S: D -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0609 -- S/S: D -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0656 -- S/S: D -- 483.21(b)(1) -- Develop/Implement Comprehensive Care Plan  
F0678 -- S/S: J -- 483.24(a)(3) -- Cardio-Pulmonary Resuscitation (CPR)  
F0684 -- S/S: J -- 483.25 -- Quality of Care  
F0690 -- S/S: E -- 483.25(e)(1)-(3) -- Bowel/Bladder Incontinence, Catheter, UTI  
F0698 -- S/S: D -- 483.25(l) -- Dialysis

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**  
Unless your facility achieves substantial compliance before May 5, 2022, CMS will terminate your

facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Instance Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$21,845.00 per instance for the instance on October 27, 2021, described at deficiency F0678 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via **e-mail only** to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by January 20, 2022. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. **March 6, 2022, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction.** You may email or fax the waiver to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485. Please include the CCN- [REDACTED] CSD-November 5, 2021, and your facility's name to the subject line of your email or fax.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning December 7, 2021, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their November 22, 2021, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-November 5, 2021 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense).

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than March 6, 2022 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than March 6, 2022 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN [REDACTED] CSD-November 5, 2021, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

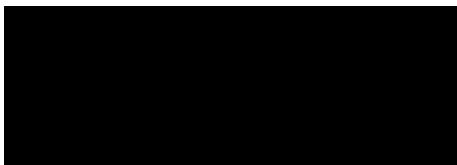
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

February 10, 2022  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): December 20, 2021

Dear Administrator:

On December 20, 2021, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated January 4, 2022. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0684 -- S/S: J -- 483.25 -- Quality Of Care

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before June 20, 2022, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare

is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty:**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$9,500.00 per day for the nine (9) days beginning December 11, 2021, and continuing through December 19, 2021, for a total of \$85,500.00, and a Federal Civil Money Penalty of \$250.00 per day beginning December 20, 2021, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by February 25, 2022. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a Civil Money Penalty**

If you waive your right to a hearing, CMS will reduce the total amount of the CMP by 35%. April 11, 2022, is the last day to waive your right to a hearing. The waiver must be submitted in writing on or before this date in order to receive the reduction. You may email or fax the waiver to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485. Please include the CCN [REDACTED] CSD-December 20, 2021, and your facility's name to the subject line of your email or fax.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a Civil Money Penalty and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed civil money penalty and place the monies in an escrow account before a final administrative hearing. The civil money penalty will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the civil money penalty. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning January 19, 2022, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their January 4, 2022, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

- **Directed In-service Training:**

Your SA imposed Directed In-service Training. Refer to the State letter dated January 4, 2022.

Please note all deficiencies cited for the surveys included under the CSD-December 20, 2021 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request

**electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than April 11, 2022 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than April 11, 2022 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email or fax a copy of your request to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to Josie Vargas. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN [REDACTED] CSD-December 20, 2021, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

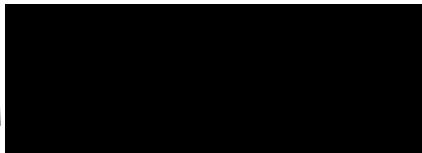
DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**

This serves as official notice pursuant to 42 CFR Part §488.  
This letter supersedes the CMS letter dated April 14, 2022.

April 20, 2022  
Delivered by Fax Only



RE: Substantial Compliance

CMS Certification Number (CCN): [REDACTED]

Enforcement Cycle Start Date (CSD): January 29, 2022

Dear Administrator:

Your State Survey Agency (SA) has stated that the deficiencies cited during the January 29, 2022, survey, which caused our proposed termination of the Medicare/Medicaid agreement with your facility, have been corrected. Your facility achieved substantial compliance with the requirements for Medicare participation on March 1, 2022. Therefore, in accordance with the Social Security Act, Subsections §1819(h), §1919(h), and Section 1128A(d) and with the regulations in 42 CFR Part §488, Subpart F, *Enforcement of Compliance for Long-Term Care Facilities with Deficiencies*, the following remedies (under this cycle start date) have been revised:

- “Termination” of Medicare/Medicaid provider agreement, effective date of July 29, 2022: **RESCINDED**
- “Denial of Payment” for new Medicare and Medicaid admissions, effective date of March 4, 2022: **RESCINDED**

Please note that it may take your Medicare Administrative Contractor (MAC) and State Medicaid office up to four weeks to update their systems and resume making payments for covered services.

- “Per-instance Civil Money Penalty (CMP)”: a Federal CMP of \$21,560.00 per instance for the instance on January 29, 2022, described at deficiency F0760 (S/S: J) had been imposed and remains as imposed.

**REMINDER: If you waive your right to a hearing (IN WRITING) no later than May 15, 2022 (sixty days from receipt of the original letter of imposition), the total amount of the**

Page 2 of 3

**CMP will be reduced by 35%. (A waiver would reduce the CMP from \$21,560.00 to \$14,014.00.)**

Our records indicate that no appeal (or waiver of appeal rights) has been filed on your behalf regarding this action. If our records regarding your appeal status are incorrect, contact us immediately. However, as stated above you still have until March 16, 2022, to either waive your right to an appeal or request a hearing. If you choose to waive your right to appeal, submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN). [REDACTED] CSD-January 29, 2022, and name are in the subject line of your email.

If you choose to request a hearing, please refer to the CMS letter dated May 15, 2022, for further information. *Please note that payment is not due at this time.*

If your facility is in bankruptcy, either immediately email or fax a copy of the "Notice of Filing of Bankruptcy" and a copy of this letter to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (443) 380-6485.

**Contact Information**

If you disagree with the compliance date, please contact your SA. If you have any other questions, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN. [REDACTED] CSD-January 29, 2022, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

cc: State LTC Sanctions  
State Medicaid Agency  
MAC

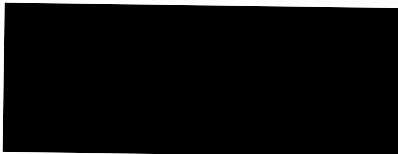
DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



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**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

April 14, 2022  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): February 13, 2022

Dear Administrator:

On February 13, 2022, and March 9, 2022, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in letters dated March 23, 2022. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

February 13, 2022, survey:  
F0582 -- S/S: D -- 483.10(g)(17)(18)(i)-(v) -- Medicaid/Medicare Coverage/Liability Notice  
F0600 -- S/S: K -- 483.12(a)(1) -- Free From Abuse and Neglect  
F0609 -- S/S: K -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: D -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation  
F0656 -- S/S: G -- 483.21(b)(1) -- Develop/Implement Comprehensive Care Plan  
F0658 -- S/S: D -- 483.21(b)(3)(i) -- Services Provided Meet Professional Standards  
F0679 -- S/S: D -- 483.24(c)(1) -- Activities Meet Interest/needs Each Resident  
F0689 -- S/S: G -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0690 -- S/S: D -- 483.25(e)(1)-(3) -- Bowel/Bladder Incontinence, Catheter, UTI  
F0744 -- S/S: E -- 483.40(b)(3) -- Treatment/Service for Dementia  
F0757 -- S/S: D -- 483.45(d)(1)-(6) -- Drug Regimen is Free from Unnecessary Drugs  
F0758 -- S/S: E -- 483.45(c)(3)(e)(1)-(5) -- Free from Unnecessary Psychotropic Meds/PRN Use  
F0759 -- S/S: E -- 483.45(f)(1) -- Free of Medication Error Rates 5 Percent or More  
F0761 -- S/S: D -- 483.45(g)(h)(1)(2) -- Label/Store Drugs and Biologicals  
F0804 -- S/S: D -- 483.60(d)(1)(2) -- Nutritive Value/Appear, Palatable/PREFER Temp  
F0838 -- S/S: F -- 483.70(e)(1)-(3) -- Facility Assessment  
F0849 -- S/S: D -- 483.70(o)(1)-(4) -- Hospice Services

March 9, 2022, survey:

F0689 -- S/S: E -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

F0812 -- S/S: E -- 483.60(i)(1)(2) -- Food Procurement, Store/Prepare/Serve-Sanitary

F0880 -- S/S: D -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before August 13, 2022, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$12,885.00 per day for the twelve (12) days beginning February 1, 2022, and continuing through February 12, 2022, for a total of \$154,620.00, and a Federal CMP of \$335.00 per day beginning February 13, 2022, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via **e-mail only** to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by April 29, 2022. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35%. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **June 13, 2022, is the last day to waive your right to a hearing. You must submit your waiver**

on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED], CSD-February 13, 2022, and name are in the subject line of your email.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning April 7, 2022, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their March 23, 2022, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their*

*responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

- **Directed Plan of Correction:**

Your SA imposed a Directed Plan of Correction. Refer to the State letter dated March 23, 2022.

Please note all deficiencies cited for the surveys included under the CSD-February 13, 2022 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than June 13, 2022 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than June 13, 2022 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-February 13, 2022, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-February 13, 2022, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN-[REDACTED], CSD-February 13, 2022, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

October 25, 2022  
Delivered by Fax Only



RE: Imposition of Remedies and Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): August 10, 2022

Dear Administrator:

On August 10, 2022, and August 17, 2022, your State Survey Agency (SA) surveyed your facility for compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare & Medicaid). The SA notified your facility of its findings in letters dated July 25, 2022, and September 7, 2022. After a review of the surveys, although the conditions that represented immediate jeopardy (cited on the August 17, 2022, survey) had been removed, the Centers for Medicare & Medicaid Services (CMS) concurs with the SA that your facility continued to be not in substantial compliance with the following Medicare/Medicaid Requirements:

August 10, 2022, survey:  
F0677 -- S/S: E -- 483.24(a)(2) -- ADL Care Provided for Dependent Residents

August 17, 2022, survey:  
F0580 -- S/S: J -- 483.10(g)(14)(i)-(iv)(15) -- Notify of Changes (injury/decline/room, etc.)  
F0607 -- S/S: J -- 483.12(b)(1)-(3) -- Develop/Implement Abuse/Neglect Policies  
F0609 -- S/S: D -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0610 -- S/S: J -- 483.12(c)(2)-(4) -- Investigate/Prevent/Correct Alleged Violation  
F0684 -- S/S: J -- 483.25 -- Quality of Care

Your SA has since reported to CMS that the deficiencies cited during the August 10, 2022, and August 17, 2022, surveys, which would have caused the termination of the Medicare/Medicaid agreement with your facility on February 10, 2023, have been corrected. Your facility achieved substantial compliance with the requirements for Medicare participation on September 2, 2022.

**ENFORCEMENT REMEDIES**

Based on the findings listed on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), forwarded to your facility after each survey, the SA notified your facility that it would recommend to CMS that remedies be imposed.

The CMS Dallas office has reviewed your facility's surveys. Based on the review, and your facility's compliance, the enforcement action remedies (under the cycle start date August 10, 2022), are as follows:

- **Termination of Your Medicare & Medicaid Provider Agreement:**

Your SA recommended termination of your facility's Provider Agreement on February 10, 2023, unless your facility achieved substantial compliance before that date. This is NOW RESCINDED.

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$13,935.00 per day for the one (1) day of July 24, 2022, and a Federal CMP of \$360.00 per day for the thirty-nine (39) days beginning July 25, 2022, and continuing through September 1, 2022, for a total of \$14,040.00. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by November 9, 2022. Contact Josie Vargas at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35%. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. December 24, 2022, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 10, 2022, and name are in the subject line of your email.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

Please be advised you are not required to request an I IDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The

IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Your SA imposed DPNA with an effective date of September 22, 2022. This is NOW RESCINDED; you may submit claims as you normally would.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than December 24, 2022 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than December 24, 2022 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Page 4 of 8

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-August 10, 2022, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-August 10, 2022, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions, please contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428. Please include the CCN-[REDACTED], CSD-August 10, 2022, and your facility's name to the subject line of your email or fax.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

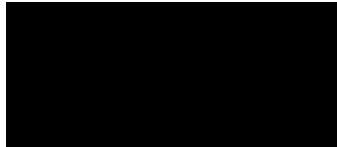
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

September 27, 2022  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): September 4, 2022

Dear Administrator:

On September 4, 2022, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated September 19, 2022. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free from Abuse and Neglect  
F0609 -- S/S: D -- 483.12(c)(1)(4) -- Reporting of Alleged Violations  
F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare & Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare & Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before March 4, 2023, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until

*it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$23,989.00 per day for the three (3) days beginning September 1, 2022, and continuing through September 3, 2022, for a total of \$71,967.00; and a Federal Civil Money Penalty of \$245.00 per day beginning September 4, 2022, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Thornell Lewis at [thornell.lewis@cms.hhs.gov](mailto:thornell.lewis@cms.hhs.gov) by October 12, 2022. Contact Thornell Lewis at [thornell.lewis@cms.hhs.gov](mailto:thornell.lewis@cms.hhs.gov) or at (469) 250-0093 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35%. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. November 26, 2022, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-September 4, 2022, and name are in the subject line of your email.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

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For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning October 4, 2022, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their September 19, 2022, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

- **Directed Plan of Correction:**

CMS is imposing a DPoC. Refer to the attached instructions. Please note that the DPoC must be submitted and accepted by CMS prior to the authorization of a revisit.

Please note all deficiencies cited for the surveys included under the CSD-September 4, 2022, will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than November 26, 2022 (60 days from the date of receipt of this letter via fax).

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The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than November 26, 2022 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)-675220, CSD-September 4, 2022, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing. Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-September 4, 2022, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### CONTACT INFORMATION

If you have any questions regarding this matter, please contact Thornell Lewis of my staff at [thornell.lewis@cms.hhs.gov](mailto:thornell.lewis@cms.hhs.gov) or (469) 250-0093. Please include the CCN [REDACTED] CSD-September 4, 2022, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas – Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

February 1, 2023  
Delivered by Fax Only

[REDACTED]

RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): December 23, 2022

Dear Administrator:

On December 23, 2022, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated January 11, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free from Abuse and Neglect  
F0607 -- S/S: J -- 483.12(b)(1)-(5)(ii)(iii) -- Develop/Implement Abuse/Neglect Policies  
F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before June 23, 2023, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until

*it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$7,320.00 per day for the one (1) day of December 20, 2022, for a total of \$7,320.00, and a Federal CMP of \$245.00 per day beginning December 21, 2022, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by February 16, 2023. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. April 2, 2023, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-December 23, 2022, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IDR). To request an IDR and a copy of your SA's IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

Please be advised you are not required to request an IIDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

• **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning January 26, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their January 11, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-December 23, 2022 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than April 2, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET

Page 4 of 8

will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than April 2, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-December 23, 2022, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-December 23, 2022, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### CONTACT INFORMATION

If you have any questions regarding this matter, please contact Josie Vargas of my staff at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or (214) 767-4428. Please include the CCN [REDACTED] CSD-December 23, 2022, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

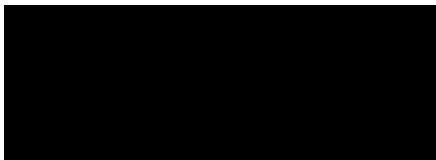
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

May 19, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): May 7, 2023

Dear Administrator:

On May 7, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated (Date of State letter informing facility of jeopardy and removal). After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

To participate as providers of services in the Medicare & Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- Termination of Your Medicare & Medicaid Provider Agreement:**  
Unless your facility achieves substantial compliance before November 7, 2023, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare

is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$19,460.00 per instance for the instance on May 7, 2023, described at deficiency F0689 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP or an extended payment plan or both. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents via e-mail only to Robert McMahan at robert.mcmahan1@cms.hhs.gov by June 3, 2023. Contact Robert McMahan at robert.mcmahan1@cms.hhs.gov or at (214) 767-5171 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **July 18, 2023, is the last day to waive your right to a hearing.** You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: **CMPDAL@cms.hhs.gov**. No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 7, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter.

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning June 1, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their May 17, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-May 7, 2023 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals

Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than July 18, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than July 18, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 7, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 7, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

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**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Robert McMahan of my staff at robert.mcmahan1@cms.hhs.gov or (214) 767-5171. Please include the CCN [REDACTED] CSD-May 7, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

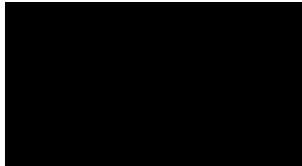
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

July 18, 2023  
Delivered by Fax Only



RE: Imposition of Remedies and Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): May 18, 2023

Dear Administrator:

On May 18, 2023, your State Survey Agency (SA) surveyed your facility for compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare & Medicaid). The SA notified your facility of its findings in a letter dated June 2, 2023. After a review of the survey, **although the conditions that represented immediate jeopardy had been removed**, the Centers for Medicare & Medicaid Services (CMS) concurs with the SA that your facility continued to be **not in substantial compliance** with the following Medicare/Medicaid Requirements:

F0689 -- S/S: J – 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices

Your SA has since reported to CMS that the deficiencies cited during the May 18, 2023, survey, which would have caused the termination of the Medicare/Medicaid agreement with your facility on November 18, 2023, have been corrected. **Your facility achieved substantial compliance with the requirements for Medicare participation on May 19, 2023.**

**ENFORCEMENT REMEDIES**

Based on the findings listed on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), forwarded to your facility after the survey, the SA notified your facility that it would recommend to CMS that remedies be imposed.

- **Termination of Your Medicare & Medicaid Provider Agreement:**  
Your SA recommended termination of your facility's Provider Agreement on November 18, 2023, unless your facility achieved substantial compliance before that date. This is **NOW RESCINDED**.
- **Per-Day Civil Money Penalty (CMP):**  
CMS is **imposing**, in accordance with the statutory provisions at §1819(h) and §1919(h) and

Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$10,440.00 per day for the eighteen (18) days beginning April 30, 2023, and continuing through May 17, 2023, for a total of \$187,920.00, and a Federal CMP of \$245.00 per day for the one (1) day of May 18, 2023, for a total of \$245.00. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by August 2, 2023. Please include the CCN [REDACTED] CSD-May 18, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **September 16, 2023, is the last day to waive your right to a hearing.** You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 18, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR

recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Your SA imposed DPNA with an effective date of June 17, 2023. This is **NOW RESCINDED**; you may submit claims as you normally would.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than September 16, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you

experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than September 16, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 18, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED], CSD-May 18, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions, please contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428. Please include the CCN [REDACTED] CSD-May 18, 2023, and your facility's name to the subject line of your email or fax.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

July 18, 2023  
Delivered by Fax Only



RE: Imposition of Remedies and Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): May 19, 2023

Dear Administrator:

On May 19, 2023, your State Survey Agency (SA) surveyed your facility for compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare & Medicaid). The SA certified that your facility was not in substantial compliance with these requirements. The Centers for Medicare & Medicaid Services (CMS) concurs with the SA that your facility was not in substantial compliance with the following Medicare/Medicaid Requirements:

**F0623 -- S/S: D -- 483.15(c)(3)-(6)(8) -- Notice Requirements before Transfer/Discharge**

On June 9, 2023, another survey was completed by your SA. The SA identified a situation indicating past noncompliance at immediate jeopardy level, which existed prior to the survey, but had already been corrected by the time of the survey. The past noncompliance was in the following:

**F0600 -- S/S: J -- 483.12(a)(1) -- Free from Abuse and Neglect**

Your SA has since reported to CMS that the deficiencies cited during the May 19, 2023, and June 9, 2023, surveys, which would have caused the termination of the Medicare/Medicaid agreement with your facility on November 19, 2023, have been corrected. **Your facility achieved substantial compliance with the requirements for Medicare participation on May 20, 2023.**

**ENFORCEMENT REMEDIES**

Based on the findings listed on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), forwarded to your facility after each survey, the SA notified your facility that it would recommend to CMS that remedies be imposed.

**• Termination of Your Medicare & Medicaid Provider Agreement:**

Your SA recommended termination of your facility's Provider Agreement on November 19, 2023, unless your facility achieved substantial compliance before that date. This is **NOW RESCINDED**.

- **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$6,095.00 per instance for the instance on May 17, 2023, described at deficiency F0623 (S/S: D). Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **September 16, 2023, is the last day to waive your right to a hearing.** You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-May 19, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Your SA imposed DPNA with an effective date of July 1, 2023. This is **NOW RESCINDED**; you may submit claims as you normally would.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than September 16, 2023 (60 days from the date of receipt of this letter via fax).

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Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

Page 4 of 5

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-May 19, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-May 19, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions, please contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428. Please include the CCN- [REDACTED], CSD-May 19, 2023, and your facility's name to the subject line of your email or fax.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

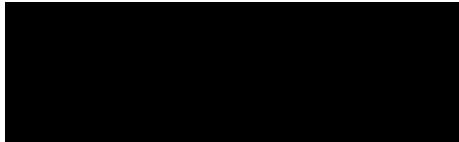
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

August 4, 2023  
Delivered by Fax Only



RE: Imposition of Remedies and Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): June 2, 2023

Dear Administrator:

On June 2, 2023, your State Survey Agency (SA) surveyed your facility for compliance with the Federal requirements at 42 CFR Part §483 Subpart B for Skilled Nursing Facilities and Nursing Facilities (Medicare & Medicaid). The SA notified your facility of its findings in a letter dated June 16, 2023. After a review of the survey, **although the conditions that represented immediate jeopardy had been removed**, the Centers for Medicare & Medicaid Services (CMS) concurs with the SA that your facility continued to be **not in substantial compliance** with the following Medicare/Medicaid Requirements:

F0688 -- S/S: D -- 483.25(c)(1)-(3) -- Increase/Prevent Decrease in ROM/Mobility  
F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0812 -- S/S: F -- 483.60(i)(1)(2) -- Food Procurement, Store/Prepare/Serve-Sanitary

Your SA has since reported to CMS that the deficiencies cited during the June 2, 2023, survey, which would have caused the termination of the Medicare/Medicaid agreement with your facility on December 2, 2023, have been corrected. **Your facility achieved substantial compliance with the requirements for Medicare participation on June 3, 2023.**

**ENFORCEMENT REMEDIES**

Based on the findings listed on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), forwarded to your facility after the survey, the SA notified your facility that it would recommend to CMS that remedies be imposed.

The CMS Dallas office has reviewed your facility's survey. Based on the review, and your facility's compliance, the following remedies are imposed:

**• Termination of Your Medicare & Medicaid Provider Agreement:**

Your SA recommended termination of your facility's Provider Agreement on December 2, 2023, unless your facility achieved substantial compliance before that date. This is **NOW RESCINDED**.

- **Per-Day Civil Money Penalty (CMP):**

CMS is **imposing**, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$10,440.00 per day for the six (6) days beginning May 27, 2023, and continuing through June 1, 2023 ,for a total of \$62,640.00, and a Federal CMP of \$245.00 per day for the one (1) day of June 2, 2023, for a total of \$245.00. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Josie Vargas at josie.vargas@cms.hhs.gov by August 19, 2023. Please include the CCN: [REDACTED] CSD-June 2, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Josie Vargas at josie.vargas@cms.hhs.gov if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **October 3, 2023, is the last day to waive your right to a hearing.** You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: CMPDAL@cms.hhs.gov. No specific form is required to waive. Please ensure your facility's CMS number (CCN): [REDACTED] CSD-June 2, 2023, and name are in the subject line of your email.

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HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

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For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Your SA imposed DPNA with an effective date of July 1, 2023. This is **NOW RESCINDED**; you may submit claims as you normally would.

### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than October 3, 2023 (60 days from the date of receipt of this letter via fax).

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Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
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In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-June 2, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-June 2, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions, please contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428. Please include the CCN [REDACTED] CSD-June 2, 2023, and your facility's name to the subject line of your email or fax.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

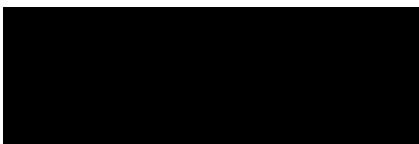
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

July 26, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): July 6, 2023

Dear Administrator:

On July 6, 2023, your State Survey Agency (SA) concluded an inspection during a visit to your facility. The SA notified you of its findings in a letter dated July 19, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; **although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance.** We concur with the findings, which indicate that the facility was **not in substantial compliance** with the following Medicare/Medicaid Requirements at that visit:

F0684 -- S/S: K -- 483.25 -- Quality of Care  
F0726 -- S/S: K -- 483.35(a)(3)(4)(c) -- Competent Nursing Staff  
F0835 -- S/S: K -- 483.70 -- Administration

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before January 6, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it

*has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$9,915.00 per day for the two (2) days beginning April 25, 2023, and continuing through April 26, 2023, for a total of \$19,830.00, and a Federal CMP of \$360.00 per day for the fifty-two (52) days beginning April 27, 2023, and continuing through June 17, 2023, for a total of \$18,720.00, and a Federal CMP of \$9,915.00 per day for the three (3) days beginning June 18, 2023, and continuing through June 20, 2023, for a total of \$29,745.00, and a Federal CMP of \$360.00 per day beginning June 21, 2023, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents, via e-mail only, to Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) by August 10, 2023. Please include the CCN: [REDACTED] CSD-July 6, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Kevin Opat at (667) 414-0707 if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **September 24, 2023, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction.** You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN): [REDACTED] CSD-July 6, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter

#### **Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

John Germany BSN, RN  
IDR/I-IDR Program Manager  
MCPM – 1 DHH Health Standards Section  
PO Box 3767  
Baton Rouge, LA 70821-3767  
(Phone) (225) 342-6006  
(Fax) (225) 342- 5073  
[john.germany@la.gov](mailto:john.germany@la.gov)

Please be advised you are not required to request an IIDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning August 3, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their July 19, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than September 24, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies*

*Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than September 24, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please include the CCN- [REDACTED] CSD-July 6, 2023, and your facility's name to the subject line of your email or fax to identify your facility.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please include the CCN- [REDACTED] CSD-July 6, 2023, and your facility's name to the subject line of your email or fax to identify your facility. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### CONTACT INFORMATION

If you have any questions, please contact Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) or at (667) 414-0707. Please include the CCN- [REDACTED] CSD-July 6, 2023, and your facility's name in the subject line of your email or voice mail message to identify your facility.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

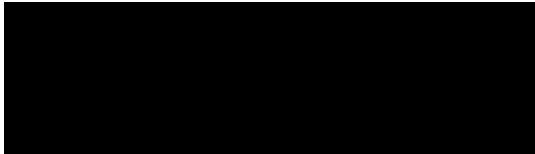
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

September 5, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): August 8, 2023

Dear Administrator:

On August 8, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated August 29, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0565 -- S/S: E -- 483.10(f)(5)(i)-(iv)(6)(7) -- Resident/Family Group and Response  
F0609 -- S/S: D -- 483.12(b)(5)(i)(A)(B)(c)(1)(4) -- Reporting of Alleged Violations  
F0641 -- S/S: D -- 483.20(g) -- Accuracy of Assessments  
F0656 -- S/S: D -- 483.21(b)(1)(3) -- Develop/Implement Comprehensive Care Plan  
F0688 -- S/S: D -- 483.25(c)(1)-(3) -- Increase/Prevent Decrease in ROM/Mobility  
F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0695 -- S/S: D -- 483.25(i) -- Respiratory/Tracheostomy Care and Suctioning

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before February 8, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$19,460.00 per instance for the instance on August 8, 2023, described at deficiency F0689 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) by September 20, 2023. Please include the CCN [REDACTED] CSD-August 8, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **November 4, 2023, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction.** You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 8, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning September 13, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their August 29, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-August 8, 2023 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable),

you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than November 4, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than November 4, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 8, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 8, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Kevin Opat of my staff at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) or (667) 414-0707. Please include the CCN [REDACTED] CSD-August 8, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

September 19, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): August 18, 2023

Dear Administrator:

On August 18, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated September 18, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0558 -- S/S: D -- 483.10(e)(3) -- Reasonable Accommodations Needs/Preferences  
F0580 -- S/S: K -- 483.10(g)(14)(i)-(iv)(15) -- Notify of Changes (injury/decline/room, etc.)  
F0760 -- S/S: K -- 483.45(f)(2) -- Residents are Free of Significant Med Errors  
F0809 -- S/S: F -- 483.60(f)(1)-(3) -- Frequency of Meals/Snacks at Bedtime  
F0812 -- S/S: F -- 483.60(i)(1)(2) -- Food Procurement, Store/Prepare/Serve-Sanitary

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**  
Unless your facility achieves substantial compliance before February 18, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2)

and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$9,675.00 per day for the two (2) days beginning August 2, 2023, and continuing through August 3, 2023, for a total of \$19,350.00, and a Federal CMP of \$360.00 per day for the one (1) day of August 4, 2023, and a Federal CMP of \$9,675.00 per day for the two (2) days beginning August 5, 2023, and continuing through August 6, 2023, for a total of \$19,350.00, and a Federal CMP of \$360.00 per day beginning August 7, 2023, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) by October 4, 2023. Please include the CCN [REDACTED] CSD-August 18, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **November 18, 2023, is the last day to waive your right to a hearing. You must submit your waiver on or before this date to receive the reduction.** You must submit your waiver to CMS via email to the following mail box: [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 18, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning October 3, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their September 18, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-August 18, 2023 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable),

you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than November 18, 2023 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than November 18, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 18, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN) [REDACTED] CSD-August 18, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Kevin Opat of my staff at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) or (667) 414-0707. Please include the CCN [REDACTED] CSD-August 18, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,

 for

Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

September 25, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): August 26, 2023

Dear Administrator:

On August 26, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated September 22, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: D -- 483.12(a)(1) -- Free from Abuse and Neglect  
F0755 -- S/S: J -- 483.45(a)(b)(1)-(3) -- Pharmacy Services/Procedures/Pharmacist/Records

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements, and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before February 26, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo>

*/Termination-Notices.html.* CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$18,325.00 per instance for the instance on August 22, 2023, described at deficiency F0755 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Kevin Opat at kevin.opat@cms.hhs.gov by October 10, 2023. Please include the CCN-[REDACTED] CSD-August 26, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Kevin Opat at kevin.opat@cms.hhs.gov if you have any questions.

#### **Waiver of Appeal Rights for a CMP**

If you waive your right to a hearing, CMS reduces the total amount of the CMP by 35% in accordance with 42 CFR §488.436. If you request a hearing, or miss the deadline to waive, the CMP will not be reduced by 35%. **November 24, 2023, is the last day to waive your right to a hearing.** You must submit your waiver on or before this date to receive the reduction. You must submit your waiver to CMS via email to the following mail box: CMPDAL@cms.hhs.gov. No specific form is required to waive. Please ensure your facility's CMS number (CCN)-[REDACTED] CSD-August 26, 2023, and name are in the subject line of your email.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Regional Office. The CMS Regional Office may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning October 7, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their September 22, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-August 26, 2023 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S.

mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than November 24, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than November 24, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-August 26, 2023, and name are in the subject line of your email.

If you choose, you may waive your right to a hearing (42 CFR §488.436). Your waiver of the right to a hearing should be sent to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). No specific form is required to waive. Please ensure your facility's CMS number (CCN)- [REDACTED] CSD-August 26, 2023, and name are in the subject line of

Page 5 of 9

your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Kevin Opat of my staff at kevin.opat@cms.hhs.gov or (667) 414-0707. Please include the CCN [REDACTED] CSD-August 26, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

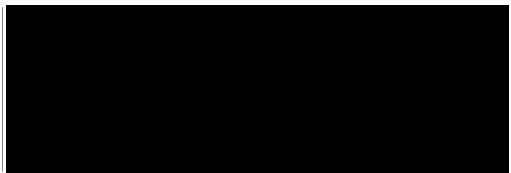
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

October 6, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): September 1, 2023

Dear Administrator:

On September 1, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated September 18, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0580 -- S/S: J -- 483.10(g)(14)(i)-(iv)(15) -- Notify of Changes (injury/decline/room, etc.)  
F0626 -- S/S: D -- 483.15(e)(1)(2) -- Permitting Residents to Return to Facility  
F0684 -- S/S: J -- 483.25 -- Quality of Care  
F0726 -- S/S: J -- 483.35(a)(3)(4)(c) -- Competent Nursing Staff

To participate as providers of services in the Medicare & Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare & Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before March 1, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57

*requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal Civil Money Penalty of \$22,340.00 for the instance on September 18, 2023, described at deficiency F0684 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Anna Garanina at anna.garanina@cms.hhs.gov by October 21, 2023. Please include the CCN [REDACTED] CSD-September 1, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Anna Garanina at anna.garanina@cms.hhs.gov if you have any questions.

#### **CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

Please be advised you are not required to request an IIDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Dallas location. The CMS Dallas location may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare & Medicaid admissions, beginning October 3, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their September 18, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated.  
*[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid, or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-September 1, 2023, will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than December 5, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET

will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than December 5, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

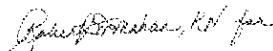
Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-September 1, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### CONTACT INFORMATION

If you have any questions regarding this matter, please contact Anna Garanina of my staff at [anna.garanina@cms.hhs.gov](mailto:anna.garanina@cms.hhs.gov) or (945) 356-1285. Please include the CCN [REDACTED] CSD-September 1, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

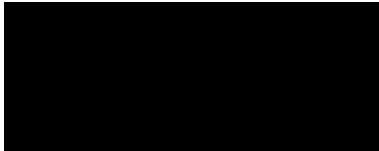
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

October 5, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): September 15, 2023

Dear Administrator:

On September 15, 2023, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated September 29, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0600 -- S/S: J -- 483.12(a)(1) -- Free from Abuse and Neglect  
F0678 -- S/S: J -- 483.24(a)(3) -- Cardio-Pulmonary Resuscitation (CPR)

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

**• Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before March 15, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57

*requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$7,320.00 per day for the one (1) day of August 21, 2023, and a Federal CMP of \$245.00 per day beginning August 22, 2023, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) by October 20, 2023. Please include the CCN: [REDACTED] CSD-September 15, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Kevin Opat at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) if you have any questions.

#### **CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

#### **Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: [IDR@hhsc.state.tx.us](mailto:IDR@hhsc.state.tx.us)

Please be advised you are not required to request an IIDR. You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Dallas location. The CMS Dallas location may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning October 14, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their September 29, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid, or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-September 15, 2023 will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

#### **FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than December 4, 2023 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET

will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than December 4, 2023 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-September 15, 2023, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

#### **CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Kevin Opat of my staff at [kevin.opat@cms.hhs.gov](mailto:kevin.opat@cms.hhs.gov) or (667) 414-0707. Please include the CCN [REDACTED] CSD-September 15, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

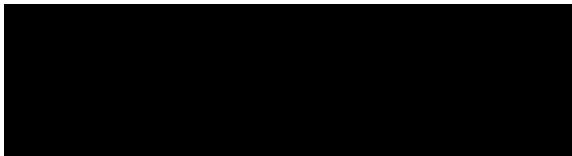
cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

November 17, 2023  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): September 21, 2023

Dear Administrator:

On September 21, 2023, and October 31, 2023, your State Survey Agency (SA) concluded inspections during surveys at your facility. The SA notified you of its findings in letters dated October 11, 2023, and November 14, 2023. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs. **Although the conditions that represented immediate jeopardy (cited on the September 21, 2023, survey) had been removed**, the facility continued to be **not in substantial compliance**. We concur with the findings, which indicate that the facility was **not in substantial compliance** with the following Medicare/Medicaid Requirements:

September 21, 2023, survey:

F0657 -- S/S: E -- 483.21(b)(2)(i)-(iii) -- Care Plan Timing and Revision  
F0689 -- S/S: J -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0835 -- S/S: J -- 483.70 -- Administration  
F0880 -- S/S: D -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control

October 31, 2023, survey:

F0552 -- S/S: D -- 483.10(c)(1)(4)(5) -- Right to be Informed/Make Treatment Decisions

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements and be free of hazard to patient health and safety.

**ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before March 21, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$7,800.00 per day for the eight (8) days beginning August 14, 2023, and continuing through August 21, 2023, for a total of \$62,400.00, and a Federal CMP of \$245.00 per day beginning August 22, 2023, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents, **via e-mail only**, to Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) by December 2, 2023. Please include the CCN, [REDACTED] CSD-September 21, 2023, and your facility's name to the subject line of your email or fax to identify your facility. Contact Josie Vargas at (214) 767-4428 if you have any questions.

#### **CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

#### **Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (IIDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (IIDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (IIDR). To request an IIDR and a copy of your SA's IIDR Process please contact:

John Germany BSN, RN  
IDR/I-IDR Program Manager  
MCPM – 1 DHH Health Standards Section  
PO Box 3767  
Baton Rouge, LA 70821-3767  
(Phone) (225) 342-6006  
(Fax) (225) 342- 5073  
[john.germany@la.gov](mailto:john.germany@la.gov)

**Please be advised you are not required to request an IIDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The IIDR process will generate a written record. The SA is not required to adopt the IIDR recommendations. If your SA disagrees with the IIDR recommendation, your IIDR will be referred to the CMS Dallas location. The CMS Dallas location may adversely modify the survey findings upon its review of the IIDR. The IIDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

- **Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning October 26, 2023, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their October 4, 2023, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid, or Medicare Managed Care Organizations during DPNA.]*

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law

with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than January 16, 2024 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than January 16, 2024 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please include the CCN-[REDACTED] CSD-September 21, 2023, and your facility's name to the subject line of your email or fax to identify your facility. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions, please contact Josie Vargas at [josie.vargas@cms.hhs.gov](mailto:josie.vargas@cms.hhs.gov) or at (214) 767-4428. Please include the CCN [REDACTED] CSD-September 21, 2023, and your facility's name in the subject line of your email or voice mail message to identify your facility.

Sincerely,



Vilma Acosta  
Manager, Long Term Care Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

December 8, 2023  
Delivered by Fax Only

RE: Substantial Compliance  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): October 27, 2023

Dear Administrator:

Your State Survey Agency (SA) has stated that the deficiencies cited during the October 27, 2023, survey, which caused our proposed termination of the Medicare/Medicaid agreement with your facility, have been corrected. **Your facility achieved substantial compliance with the requirements for Medicare participation on October 28, 2023.** Therefore, in accordance with the Social Security Act, Subsections §1819(h), §1919(h), and Section 1128A(d) and with the regulations in 42 CFR Part §488, Subpart F, *Enforcement of Compliance for Long-Term Care Facilities with Deficiencies*, the following remedies (**under this cycle start date**) have been revised:

- “Termination” of Medicare/Medicaid provider agreement, effective date of April 27, 2024: **RESCINDED**
- “Denial of Payment” for new Medicare & Medicaid admissions, effective date of November 25, 2023: **RESCINDED**

Please note that it may take your Medicare Administrative Contractor (MAC) and State Medicaid office up to four weeks to update their systems and resume making payments for covered services.

- “Per-day Civil Money Penalty (CMP)”: a Federal Civil Money Penalty of \$10,200.00 per day for the one (1) day of October 14, 2023, for a total of \$10,200.00, and a Federal Civil Money Penalty of \$245.00 per day for the thirteen (13) days beginning October 15, 2023, and continuing through October 27, 2023, for a total of \$3,185.00 had been imposed and **remain as imposed**. The combined total is \$13,385.00.

Our records indicate that no appeal has been filed on your behalf regarding this action. The last day to appeal is January 15, 2023, as stated in the initial CMS letter for filing of appeals. If our records regarding your appeal status are incorrect, contact us immediately. If you choose to request a hearing,

please refer to the CMS letter dated November 16, 2023, for further information. *Please note that payment is not due at this time.*

If your facility is in bankruptcy, either immediately email or fax a copy of the "Notice of Filing of Bankruptcy" and a copy of this letter to Anna Garanina at anna.garanina@cms.hhs.gov or at (443) 380-5373.

**CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the previous notice dated November 16, 2023. CMS will then reduce the CMP by 35%.

**Contact Information**

If you disagree with the compliance date, please contact your SA. If you have any other questions, please contact Anna Garanina of my staff at anna.garanina@cms.hhs.gov or (945) 356-1285. Please include the CCN [REDACTED] CSD-October 27, 2023, and your facility's name in the subject line of your email or voice mail message.

Sincerely,

*Anna Garanina, RN for*

Vilma Acosta  
Manager, Long Term Care Branch

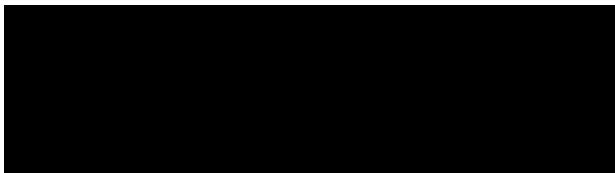
cc: State LTC Sanctions  
State Medicaid Agency  
MAC

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**  
**This serves as official notice pursuant to 42 CFR Part §488.**

March 14, 2024  
Delivered by Fax Only



RE: Imposition of Remedies

CMS Certification Number (CCN): [REDACTED]

Enforcement Cycle Start Date (CSD): February 20, 2024

Dear Administrator:

On February 20, 2024, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated March 5, 2024. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0607 -- S/S: J -- 483.12(b)(1)-(5)(ii)(iii) -- Develop/Implement Abuse/Neglect Policies

F0655 -- S/S: D -- 483.21(a)(1)-(3) -- Baseline Care Plan

F0656 -- S/S: D -- 483.21(b)(1)(3) -- Develop/Implement Comprehensive Care Plan

F0690 -- S/S: D -- 483.25(e)(1)-(3) -- Bowel/Bladder Incontinence, Catheter, UTI

F0761 -- S/S: D -- 483.45(g)(h)(1)(2) -- Label/Store Drugs and Biologicals

F0839 -- S/S: J -- 483.70(f)(1)(2) -- Staff Qualifications

F0842 -- S/S: D -- 483.20(f)(5), 483.70(i)(1)-(5) -- Resident Records - Identifiable Information

F0865 -- S/S: F -- 483.75(a)(1)-(4)(b)(1)-(4)(f)(1)-(6)(h)(i) -- QAPI Prgm/Plan, Disclosure/Good Faith Attemp

483.90(a) – Life Safety from Fire

K0345 -- S/S: F -- NFPA 101 -- Fire Alarm System - Testing and Maintenance

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements and be free of hazard to patient health and safety.

## **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

- **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before August 20, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. *Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.*

- **Per-Day Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$11,125.00 per day for the twenty (20) days beginning January 29, 2024, and continuing through February 17, 2024, for a total of \$222,500.00, and a Federal CMP of \$265.00 per day beginning February 18, 2024, and continuing until further notice from CMS. In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition.

### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Anna Garanina at anna.garanina@cms.hhs.gov by March 29, 2024. Please include the CCN [REDACTED] CSD-February 20, 2024, and your facility's name to the subject line of your email or fax to identify your facility. Contact Anna Garanina at anna.garanina@cms.hhs.gov if you have any questions.

### **CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

**PLEASE DO NOT SEND PAYMENT AT THIS TIME.** CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Dallas location. The CMS Dallas location may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning March 20, 2024, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their March 5, 2024, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid, or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-February 20, 2024, will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable),

you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than May 13, 2024 (60 days from the date of receipt of this letter via fax).

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at: [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at [OSDABIImmediateOffice@hhs.gov](mailto:OSDABIImmediateOffice@hhs.gov) or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than May 13, 2024 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-February 20, 2024, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Anna Garanina of my staff at [anna.garanina@cms.hhs.gov](mailto:anna.garanina@cms.hhs.gov) or (945) 356-1285. Please include the CCN [REDACTED] CSD-February 20, 2024, and your facility's name in the subject line of your email or voice mail message.

Sincerely,

*Daniel McElroy, R.N. for*

Vilma Acosta  
Manager, Long Term Care Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice

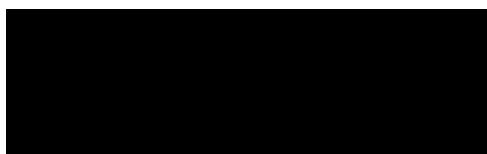
DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
CMS Dallas - Survey & Operations Group  
1301 Young Street, Room 106-900  
Dallas, Texas 75202



**IMPORTANT NOTICE - PLEASE READ ENTIRE DOCUMENT CAREFULLY**

**This serves as official notice pursuant to 42 CFR Part §488.**

March 22, 2024  
Delivered by Fax Only



RE: Imposition of Remedies  
CMS Certification Number (CCN): [REDACTED]  
Enforcement Cycle Start Date (CSD): February 25, 2024

Dear Administrator:

On February 25, 2024, your State Survey Agency (SA) concluded an inspection during a survey at your facility. The SA notified you of its findings in a letter dated March 11, 2024. After a careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that the above-named facility no longer meets the requirements for participation in the Medicare/Medicaid programs; although the conditions that represented immediate jeopardy had been removed, the facility continued to be not in substantial compliance. We concur with the findings, which indicate that the facility was not in substantial compliance with the following Medicare/Medicaid Requirements at that survey:

F0578 -- S/S: J -- 483.10(c)(6)(8)(g)(12)(i)-(v) -- Request/Refuse/Discontinue Treatment;  
Formulate Advance Directive  
F0584 -- S/S: D -- 483.10(i)(1)-(7) -- Safe/Clean/Comfortable/Homelike Environment  
F0609 -- S/S: D -- 483.12(b)(5)(i)(A)(B)(c)(1)(4) -- Reporting of Alleged Violations  
F0641 -- S/S: D -- 483.20(g) -- Accuracy of Assessments  
F0644 -- S/S: D -- 483.20(e)(1)(2) -- Coordination of PASARR and Assessments  
F0656 -- S/S: E -- 483.21(b)(1)(3) -- Develop/Implement Comprehensive Care Plan  
F0657 -- S/S: D -- 483.21(b)(2)(i)-(iii) -- Care Plan Timing and Revision  
F0678 -- S/S: J -- 483.24(a)(3) -- Cardio-Pulmonary Resuscitation (CPR)  
F0689 -- S/S: D -- 483.25(d)(1)(2) -- Free of Accident Hazards/Supervision/Devices  
F0695 -- S/S: D -- 483.25(i) -- Respiratory/Tracheostomy Care and Suctioning  
F0812 -- S/S: E -- 483.60(i)(1)(2) -- Food Procurement, Store/Prepare/Serve-Sanitary  
F0842 -- S/S: D -- 483.20(f)(5), 483.70(i)(1)-(5) -- Resident Records - Identifiable Information  
F0880 -- S/S: D -- 483.80(a)(1)(2)(4)(e)(f) -- Infection Prevention & Control

483.90(a) – Life Safety from Fire  
K0321 -- S/S: D -- NFPA 101 -- Hazardous areas - Enclosure  
K0352 -- S/S: F -- NFPA 101 -- Sprinkler System - Supervisory Signals

To participate as providers of services in the Medicare and Medicaid program, skilled nursing facilities must meet all provisions of Section 1819 of the Social Security Act, be in compliance with each of the Medicare/Medicaid Requirements and be free of hazard to patient health and safety.

### **ENFORCEMENT REMEDIES**

Based on the deficiencies on the Statement of Deficiencies and Plan of Correction (Form CMS 2567), the following remedies are imposed:

• **Termination of Your Medicare and Medicaid Provider Agreement:**

Unless your facility achieves substantial compliance before August 25, 2024, CMS will terminate your facility's Medicare provider agreement in accordance with the Social Security Act 1866(b)(2) and 42 CFR §488.412(d). CMS will publish notice of this termination on the CMS website, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Termination-Notices.html>. CMS will also notify the appropriate State officials concerning the impending termination of your Medicare provider agreement. When your participation in Medicare is terminated, your State Medicaid Agency is required to terminate your participation in Medicaid in accordance with the Social Security Act 1902(a)(39) and 42 CFR §488.456(d)(2) and §455.416. Medicare regulation 42 CFR §489.57 requires that when a provider agreement is terminated by CMS, a new agreement will not be accepted until it has been determined that the reason for termination of the agreement has been removed and there is reasonable assurance that it will not recur. The terminated facility will have to operate for a period of time determined by CMS, during which the reasonable assurance requirement has been satisfied. During this period the facility must fulfill, or make satisfactory arrangements to fulfill, all of the statutory and regulatory responsibilities of the previous agreement.

• **Per-Instance Civil Money Penalty (CMP):**

CMS is imposing, in accordance with the statutory provisions at §1819(h) and §1919(h) and Federal regulations at 42 CFR §488.430, §488.434, §488.438, a Federal CMP of \$25,305.00 per instance for the instance on January 27, 2024, described at deficiency F0678 (S/S: J). In determining the amount of the CMP, CMS considers the seriousness and pervasiveness of the deficiencies, the degree of facility culpability, facility compliance history, and financial condition. Each per-instance CMP applies to a single deficiency on the Form CMS 2567 and does not accrue.

#### **Financial Hardship Consideration**

You may request financial hardship consideration for a reduction in the CMP. If you would like to request a financial hardship consideration, please see the attached document (Financial Hardship Review) and return all required documents **only by e-mail** to Anna Garanina at anna.garanina@cms.hhs.gov by April 6, 2024. Please include the CCN- [REDACTED] CSD-February 25, 2024, and your facility's name to the subject line of your email or fax to identify your facility. Contact Anna Garanina at anna.garanina@cms.hhs.gov if you have any questions.

#### **CMP Reduction if No Appeal is Filed**

If CMS does not receive a request for a hearing from a facility, the facility will be deemed to have waived its right to a hearing 60 days from the date of this notice. CMS will then reduce the CMP by 35%.

If you would like to request a hearing, please refer to the "Filing an Appeal" section in this letter.

PLEASE DO NOT SEND PAYMENT AT THIS TIME. CMS will notify you of the total amount due and where payment is to be sent.

**Collection of a CMP and Deposit in Escrow**

In accordance with 42 CFR §488.331 and §488.431, CMS will collect this imposed CMP and place the monies in an escrow account before a final administrative hearing. The CMP will be collected on the earliest date of the following:

- Completion of an Independent Informal Dispute Resolution (I IDR); or
- Ninety (90) days from the date of this Notice Letter

**Opportunity for Independent Informal Dispute Resolution (I IDR)**

You have ten (10) calendar days from the date of this notice letter to request an Independent Informal Dispute Resolution (I IDR). To request an I IDR and a copy of your SA's I IDR Process please contact:

HHSC IDR Unit  
4601 W. Guadalupe, Mail Code H-970  
Austin, Texas 78751  
Phone: 512-706-7268  
e-mail: IDR@hhsc.state.tx.us

**Please be advised you are not required to request an I IDR.** You may choose to continue an Informal Dispute Resolution (IDR) request already made to your State Survey Agency. You may not use both dispute resolution processes at §488.331 and §488.431 for the same deficiency citation arising from the same survey unless the IDR was at §488.331 was completed prior to CMS imposing the CMP. The I IDR process will generate a written record. The SA is not required to adopt the I IDR recommendations. If your SA disagrees with the I IDR recommendation, your I IDR will be referred to the CMS Dallas location. The CMS Dallas location may adversely modify the survey findings upon its review of the I IDR. The I IDR process is not a formal evidentiary hearing and does not grant further appeal rights.

For additional guidance, please refer to the Survey and Certification Memorandum S&C 12-08-NH.

**• Denial of Payment for New Admissions (DPNA):**

Payment will be denied for all NEW Medicare and Medicaid admissions, beginning March 26, 2024, in accordance with the statutory provisions at §1819(h)(2)(D) and §1919(h)(2)(C) and Federal regulations at 42 CFR §488.417. Under CMS's authority, the SA sent you notice of this remedy in their March 11, 2024, letter. CMS will notify your Medicare payer the date the denial of payment begins. DPNA will continue until the day before your facility achieves substantial compliance or your provider agreement is terminated. *[You may not bill new Medicare/Medicaid residents or their responsible parties for services normally covered by Medicare, Medicaid, or Medicare Managed Care Organizations during DPNA.]*

Please note all deficiencies cited for the surveys included under the CSD-February 25, 2024, will need to be in substantial compliance for remedies to be rescinded or for the effective last day to be determined.

**FILING AN APPEAL**

If you disagree with the determination of noncompliance (and/or substandard quality of care resulting in the loss of your Nurse Aide Training and Competency Evaluation Program (NATCEP), if applicable), you or your legal representative may request a hearing before an administrative law judge of the U.S. Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR §498.40, et. seq. You may appeal the finding of noncompliance that led to an enforcement action, but not the enforcement action or remedy itself. A request for a hearing should identify the specific issues, and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for

contending that the findings and conclusions are incorrect. You may have counsel represent you at a hearing (at your own expense). Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted unless you do not have access to a computer or internet service. **You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than May 21, 2024 (60 days from the date of receipt of this letter via fax).**

When using DAB E-File for the first time, you will need to create an account by a) clicking Register on the DAB E-File home page; b) entering the requested information on the Register New Account form; and c) clicking Register Account at the bottom of the form. Each representative authorized to represent you must register separately to use the DAB E-File on your behalf.

The e-mail address and password given during registration must be entered on the login screen at [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new) to access DAB E-File. A registered user's access to DAB E-File is restricted to the appeals for which he/she is a party or an authorized representative. You can file a new appeal by a) clicking the *File New Appeal* link on the Manage Existing Appeals screen; then b) clicking *Civil Remedies Division* on the File New Appeal screen; and c) entering and uploading the requested information and documents on the File New Appeal-Civil Remedies Division form.

The Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by the notice letter from CMS that addresses the action taken and your appeal rights. All submitted documents must be in Portable Document Format (PDF). Documents uploaded to DAB E-File on any day on or before 11:59p.m. ET will be considered to have been received on that day. You will be expected to accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the Administrative Law Judge (ALJ) via DAB E-File. Further instructions are located at: [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). Please contact the Civil Remedies Division at (202) 565-9462 if you have questions regarding the DAB E-Filing System. If you experience technical issues with the DAB E-Filing System, please contact E-File System Support at OSDABImmediateOffice@hhs.gov or call (202) 565-0146 before 4:00p.m. ET.

If you do not have access to a computer or internet service, you may call the Civil Remedies Division at (202) 565-9462 to request a waiver from e-filing and provide an explanation as to why you cannot file electronically, or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than May 21, 2024 (60 days from the date of receipt of this letter via fax), by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201

In addition, please email a copy of your request to [CMPDAL@cms.hhs.gov](mailto:CMPDAL@cms.hhs.gov). Please ensure your facility's CMS number (CCN) [REDACTED] CSD-February 25, 2024, and name are in the subject line of your email. In accordance with §498.20, the failure to request a hearing will render the survey findings and imposed remedies final and binding.

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**CONTACT INFORMATION**

If you have any questions regarding this matter, please contact Anna Garanina of my staff at anna.garanina@cms.hhs.gov or (945) 356-1285. Please include the CCN. [REDACTED] CSD-February 25, 2024, and your facility's name in the subject line of your email or voice mail message.

Sincerely,



Vilma Acosta  
Manager, Dallas Long-Term Care Enforcement Branch

Enclosure

cc: State LTC Sanctions  
State Medicaid Agency  
MAC  
Department of Justice